

§ 15.24

business (official Government business, as used here, does not include travel, or parking incident thereto, between quarters and office, or use of vehicles for the convenience of the owner. However, it does include travel, and parking incident thereto, between quarters and an assigned place of duty specifically authorized by the employee's supervisor as being more advantageous to the Government); or

(2) Shipment of such motor vehicles was being furnished or provided by the Government, subject to the provisions of § 15.25.

(e) *Computers and Electronics.* Claims may be allowed for loss of, or damage to, cellular phones, fax machines, computers and related hardware and software only when lost or damaged incident to fire, flood, hurricane, other natural disaster, or by theft from quarters (as limited by § 15.22(c)(1)) or unless it is being shipped as a part of a change of duty station paid for by the Department. In incidents of theft from quarters, it must be conclusively shown that the quarters were locked at the time of the theft.

§ 15.24 Unallowable claims.

Claims are not allowable for the following:

(a) *Unassigned quarters in United States.* Property loss or damage in quarters occupied by the claimant within the 50 States or the District of Columbia that were not assigned to him or otherwise provided in kind by the United States.

(b) *Business property.* Property used for business or profit.

(c) *Unserviceable property.* Wornout or unserviceable property.

(d) *Illegal possession.* Property acquired, possessed or transferred in violation of the law or in violation of applicable regulations or directives.

(e) *Articles of extraordinary value.* Valuable articles, such as cameras, watches, jewelry, furs or other articles of extraordinary value. This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked, if reasonable protection or security measures have been taken by claimant.

(f) *Intangible property.* Loss of property that has no extrinsic and market-

29 CFR Subtitle A (7-1-00 Edition)

able value but is merely representative or evidence of value, such as non-negotiable stock certificates, promissory notes, bonds, bills of lading, warehouse receipts, insurance policies, baggage checks, and bank books, is not compensable. Loss of a thesis, or other similar item, is compensable only to the extent of the out-of-pocket expenses incurred by the claimant in preparing the item such as the cost of the paper or other materials. No compensation is authorized for the time spent by the claimant in its preparation or for supposed literary value.

(g) *Incidental expenses and consequential damages.* The Act and this subpart authorize payment for loss of or damage to personal property only. Except as provided in § 15.22(c)(7), consequential damages or other types of loss or incidental expenses (such as loss of use, interest, carrying charges, cost of lodging or food while awaiting arrival of shipment, attorney fees, telephone calls, cost of transporting claimant or family members, inconvenience, time spent in preparation of claim, or cost of insurance premiums) are not compensable.

(h) *Real property.* Damage to real property is not compensable. In determining whether an item is considered to be an item of personal property, as opposed to real property, normally, any movable item is considered personal property even if physically joined to the land.

(i) *Commercial property.* Articles acquired or held for sale or disposition by other commercial transactions on more than an occasional basis, or for use in a private profession or business enterprise.

(j) *Commercial storage.* Property stored at a commercial facility for the convenience of the claimant and at his or her expense.

(k) *Minimum amount.* Loss or damage amounting to less than \$25.

§ 15.25 Claims involving carriers or insurers.

In the event the property which is the subject of the claim was lost or damaged while in the possession of a commercial carrier or was insured, the following procedures will apply:

Office of the Secretary of Labor

§ 15.26

(a) Whenever property is damaged, lost or destroyed while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the last commercial carrier known or believed to have handled the goods, or the carrier known to be in possession of the property when the damage or loss occurred, according to the terms of its bill of lading or contract, before submitting a claim against the Government under this subpart.

(b) Whenever property is damaged, lost or destroyed incident to the claimant's service and is insured in whole or in part, the claimant must make demand in writing against the insurer for reimbursement under the terms and conditions of the insurance coverage, prior to the filing of the claim against the Government.

(c) Failure to make a demand on a carrier or insurer or to make all reasonable efforts to protect and prosecute rights available against a carrier or insurer and to collect the amount recoverable from the carrier or insurer may result in reducing the amount recoverable from the Government by the maximum amount which would have been recoverable from the carrier or insurer had the claim been timely or diligently prosecuted. However, no deduction will be made where the circumstances of the claimant's service preclude reasonable filing of such a claim or diligent prosecution, or the evidence indicates a demand was impracticable or would have been unavailing.

(d) Following the submission of the claim against the carrier or insurer, the claimant may immediately submit his claim against the Government in accordance with the provisions of this subpart, without waiting until either final approval or denial of the claim is made by the carrier or insurer.

(1) Upon submitting his or her claim, the claimant shall certify in his claim that he or she has or has not gained any recovery from a carrier or insurer, and enclose all correspondence pertinent thereto.

(2) If final action has not been taken by the carrier or insurer on the claim, the claimant shall immediately notify them to address all correspondence in

regard to the claim to the appropriate Office of the Solicitor of Labor.

(3) The claimant shall advise the appropriate Office of the Solicitor of any action taken by the carrier or insurer on the claim and, upon request, shall furnish all correspondence, documents, and other evidence pertinent to the matter.

(e) The claimant shall assign to the United States, to the extent of any payment on the claim accepted by him or her, all rights, title and interest in any claim he or she may have against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. After payment of the claim by the United States, the claimant shall, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him or her from the United States.

(f) Where a claimant recovers from the loss from the carrier or insurer before his or her claim under this subpart is settled, the amount of recovery shall be applied to the claim as follows:

(1) When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this part, no compensation is allowable under this subpart.

(2) When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss.

(3) For this purpose, the claimant's total loss is to be determined without regard to the maximum payment limitations set forth in § 15.20. However, if the resulting amount, after making this deduction exceeds the maximum payment limitations, the claimant shall be allowed only the maximum amount set forth in § 15.20.

§ 15.26 Claims procedures.

(a) *Award.* The Counsel for Claims and Compensation, the Regional Solicitors, and the Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this subpart that arose within their respective jurisdictions, except that any claim for